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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,150	03/29/2004	Raymond Lynn Neff	RFTRAX01	5424
7590	03/08/2006		EXAMINER	
Mark A. Tidwell / Jackson Walker L.L.P. 112 E. Pecan Street, Suite 2100 San Antonio, TX 78205			SWARTHOUT, BRENT	
			ART UNIT	PAPER NUMBER
			2636	

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/813,150	NEFF ET AL.
	Examiner Brent A. Swarthout	Art Unit 2636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-46 is/are pending in the application.
  - 4a) Of the above claim(s) 18,19,25-29,40 and 44 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-17,20-24,30-32,37,38,41 and 42 is/are rejected.
- 7) Claim(s) 33-36,39,43,45,46 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____.                                   |

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,4,9,16,17,20,21,22,23,24,33,38 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levy in view of Watters et al.

Levy discloses a monitoring unit 14 comprising power supply 25, sensor 18, monitoring electronics 23 for sensing triggering event and radio transmitter 24 for transmitting event data to a reader 13, except for specifically stating that the electronics has memory means to record the sensor output.

Watters teaches desirability of monitoring conditions with sensor 116 and recording triggered events using memory component 114 which can be a programmable integrated circuit or EPROM (col. 9, lines 50-56).

It would have been obvious to use programmable electronics as suggested by Watters to record a triggered event as disclosed by Levy, in order that continuous data for various conditions could have been provided instead of just an initial condition.

Regarding claim 2, Levy teaches use of receiver 37.

Regarding claim 9, Levy teaches that trigger event data can be immediately transmitted instead of waiting for interrogation (col. 3, lines 44-45).

Regarding claim 16, Watters teaches that sensors can be used to sense displacement (col. 8, line 18).

Regarding claim 17, Watters teaches use of identifier of monitoring unit (col. 6, lines 49-57).

Regarding claim 20, sensing unit can receive signals and transmit signals via antenna 117.

Regarding claim 21, Watters teaches that depending on what type of condition is to be sensed, IR can be used (col. 11, lines 64-67).

Regarding claims 22,23,24, Watters teaches use of optical or displacement sensing (col. 8, lines 15-28).

Regarding claim 41, since Watters teaches sensing visible light, gamma rays and UV, choosing to use a reflective sensor would have been obvious since reflectors are well-known in the art for sensing incident radiation.

2. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Levy in view of Watters and Ghaffari.

Ghaffari discloses desirability in a monitoring device system of placing a device in a sleep mode, and to periodically wake up the device (col. 9, lines 51-59).

It would have been obvious to include sleep mode as suggested by Ghaffari in a system as disclosed by Levy and Watters, in order to preserve power so tags would operate longer without needing replacement.

3. Claims 5,10,13 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levy in view of Watters et al. and Akiyama et al.

Akiyama discloses a monitoring unit for detecting an event comprising use of storing data with time information (col. 4, line 2).

It would have been obvious to use time stamping as suggested by Akiyama in conjunction with a system as disclosed by Levy and Watters, in order to allow determination of when a triggered event occurred.

4. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levy in view of Watters et al. and Shanks et al.

Shanks teaches desirability of transmitting an ID from a reader to a sensor unit, and transmitting the ID back to the reader with sensor data (paragraph 25).

It would have been obvious to send ID data to a sensor unit in a system as disclosed by Levy and Watters in order to allow particular sensor units to be queried without having to check all sensors at once.

Regarding claim 7, Shanks teaches sending sensor data back to reader (paragraph 25).

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Levy in view of Watters et al. and Ohta et al.

Ohta discloses desirability of sending a transmission from reader 301 to change the data at a monitoring unit 401 (col. 7, lines 25-45).

It would have been obvious to use reader control of data at a tag as suggested by Ohta in a system as disclosed by Levy and Watters, in order to allow a tag to be reprogrammed without having to be taken out of service.

6. Claims 11, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levy in view of Watters et al., Akiyama et al. and Shanks et al.

Claims are rejected for the same reasons as given above in paragraphs 3-4.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Levy in view of Watters et al., Akiyama et al. and Ghaffari.

Claims are rejected for the same reasons as given above with regard to paragraphs 2-3.

8. Claims 30-32 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levy.

Claims are rejected for the same reasons as set forth above with regard to paragraph number 1, it being noted that claim 30 does not require use of programmable sensor memory.

9. Claims 33-36,39,43 and 45-46 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent A Swarthout whose telephone number is 571-272-2979. The examiner can normally be reached on M-F from 6:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Hofsass, can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Brent Swarthout*  
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**BRENT A. SWARTHOUT**  
**PRIMARY EXAMINER**